IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

OP.No. 519 of 2002(S)

OA.140/1999 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS: RESPONDENTS 1 TO 4
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1. UNION OF INDIA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF RAILWAYS, RAIL BHAVAN, NEW DELHI.

2. THE GENERAL MANAGER, SOUTHERN RAILWAY, HEADQUARTERS OFFICE, PARK TOWN P.O., MADRAS - 3.

3. THE DIVISIONAL RAILWAYS MANAGER, SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

4. THE SENIOR DIVISIONAL PERSONNEL OFFICER, SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

BY ADV. SRI.ALEXANDER THOMAS SC RLYS
SRI.VARGHESE P.THOMAS, SR.SC,RAILWAYS
SRI.K.V.SADANANDA PRABHU
SRI.T.C.GOVINDA SWAMY FOR R2

RESPONDENTS: PETITIONERS
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1. G.DHANARAJ, AGED 47 YEARS, S/O. R.GOVINDARAJ, RESIDING AT DOOR NO.435, PERIATHOTTAM, CHENNIMALAI ROAD, ERODE - 2.

2. V.GUNASEELAN, AGED 42 YEARS, S/O. C.VADIVELU, RESIDING AT DOOR NO.678, CHENNIMALAI ROAD, ERODE - 2.

**3. K.K.NATARAJAN, AGED 42 YEARS,
S/O. S.KANNAIAN, RESIDING AT DOOR NO.22,
ARUMAIKKARA STREET, KOLLAMPALAYAM, ERODE - 2.**

ADDL.RESPONDENTS 4 TO 13.

**4. R.KANNAN, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**5. A.ABDUL SALAM, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**6. A.MARAPPAN, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**7. R.RAVICHANDRAN, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**8. K.DEVADAS, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**9. K.MADAYAN, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**10. R.JAGAJEEVAN, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**11. V.CHINNASAMY, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**12. P.MOHANAN, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**13. I.ANTONIRAJ, KHALASI HELPER,
(MECHANICAL), DIESEL LOCO SHED,
SOUTHERN RAILWAY, PALGHAT DIVISION,
ERODE.**

**BY ADV. SRI.T.C.GOVINDA SWAMY
SRI.MARTIN G.THOTTAN
SRI.MANNATIL KUMAR
SMT.D.HEERA
SRI.K.M.ANTHRU
SRI.SIBY J.MONIPPALLY**

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.519/2002

ORDER IN CMP NO. 819 OF 2002 IN OP NO.519 OF 2002

DISMISSED

8/6/2007 **SD/-K.S.RADHAKRISHNAN, JUDGE.**

SD/- ANTONY DOMINIC, JUDGE.

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF THE ORIGINAL APPLICATION NO.140/1999 DATED 1-2-99 FILED BY THE RESPONDENTS BEFORE THE CAT, ERNAKULAM BENCH.

EXT.P2: TRUE COPY OF THE RAILWAY BOARD LETTER NO.PC-V/97/1/11/97 DATED 28.9.98, WHICH WAS PRODUCED AS ANNEXURE A3 IN OA NO.140/1999.

EXT.P3: TRUE COPY OF THE REPLY STATEMENT FILED BY THE PETITIONERS IN OA NO.140/99.

EXT.P4: TRUE COPY OF THE ORDER DATED 13/7/2001 IN OA NO.140/99 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM.

EXT.P5: TRUE COPY OF THE LETTER NO.P(RT) 563/1/VOL.XIII DATED 25.4.1995.

//TRUE COPY//

K.S.RADHAKRISHNAN & ANTONY DOMINIC, JJ.

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O.P. NO. 519 OF 2002

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Dated this the 8th day of June, 2007

J U D G M E N T

Radhakrishnan, J.

Challenge is against the order passed by the Tribunal in O.A.140/99. An application was preferred by the respondents herein before the Tribunal for a declaration that they are entitled to be considered for promotion against vacancies of Diesel Mechanical Technicians Grade III which existed prior to 31/8/98 and a declaration was also sought that the additional posts created in terms of para 2 of Annexure A3 are to be filled up based on seniority cum suitability from among the Khalasis in the feeder category and that the respondents are entitled for promotion as Diesel Mechanical Technician Grade III in preference to the juniors and also for other consequential reliefs.

2. The Tribunal declared that the applicants are entitled to be considered for promotion against the vacancies prior to 31/8/98 and a direction was given to the Department to promote them against which this OP has been preferred.

Before the Tribunal the respondents submitted that as per

rules 50% of the vacancies are to be filled up by promotion, 25% by direct recruitment and the balance 25% by Departmental Competitive Examination. It is stated before the Tribunal that the vacancies which existed prior to 31/8/98 were filled up, 9 from open market and 19 through Limited Departmental Competitive Examination against the 28 vacancies. Further, it is also stated that the applicants were not qualified to be promoted on the strength of the letter dated 25/4/95 by the Chief Personnel Officer. Applicants submitted that Chief Personnel Officer has no power to issue a letter as per rules and they are fully qualified for promotion to 50% quota as found by the Tribunal. We notice that the applicants were promoted in 2000 and they are now holding the post. Hence we find no reason to disturb their continuance in the promotion post. Tribunal has stated cogent reasons. We therefore find no illegality or infirmity in the order passed in OA 140/99. Original petition lacks merits. Dismissed.

K.S.RADHAKRISHNAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp